



March 28, 2001

ENGROSSED SENATE BILL No. 344

DIGEST OF SB 344 (Updated March 26, 2001 5:24 PM - DI 105)

Citations Affected: IC 32-8; noncode.

Synopsis: Abandoned watercraft. Permits marina operators to sell at auction watercraft that have been left at the marina without permission for more than six months. Requires the marina operator to perform a title search in the records of the state of registration as indicated on the exterior of the watercraft, coast guard records, and the bureau of motor vehicles before conducting an auction. Requires the marina operator to notify the owner and any lien holder of the intent to sell the abandoned watercraft. Allows the owner or lien holder to redeem the watercraft within 10 days of receiving notice from the marina operator. Provides that if the watercraft is not redeemed, the watercraft will be auctioned and sold to the highest bidder. Requires the marina operator to provide the highest bidder with an affidavit of sale, which constitutes proof of ownership permitting the bureau to issue a certificate of title to the purchaser.

Effective: July 1, 2001.

Mrvan, Landske, Bowser, Kenley

(HOUSE SPONSORS — HARRIS, PELATH, BUDAK)

January 16, 2001, read first time and referred to Committee on Judiciary.

February 15, 2001, amended, reported favorably — Do Pass.

March 5, 2001, read second time, amended, ordered engrossed.

March 6, 2001, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 12, 2001, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.

March 27, 2001, amended, reported — Do Pass.

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March 28, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

ENGROSSED SENATE BILL No. 344

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-8-40 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2001]:

Chapter 40. Sale of Abandoned Watercraft

5 **Sec. 1.** As used in this chapter, "marina operator" means a
6 person, a firm, a corporation, a limited liability company, a
7 municipality, or another unit of government that is engaged in the
8 business of operating a marina.

Sec. 2. A marina operator may:

- 10 (1) sell a watercraft that has been left without permission at
11 the marina for more than six (6) months; and
12 (2) recover the operator's reasonable maintenance, repair,
13 dockage, storage, and other charges if the conditions
14 described in section 3 of this chapter are met.

15 **Sec. 3.** The minimum six (6) month period described in section
16 2 of this chapter begins the day written notice is sent by the marina
17 operator to the last known address of the owner of the watercraft

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1 or personally delivered to the owner of the watercraft. If the notice
2 is mailed, the marina operator shall send notice by certified mail,
3 return receipt requested. Notice, by mail or personally delivered,
4 must include a description of the watercraft and a conspicuous
5 statement that the watercraft is at the marina without permission
6 of the marina.

7 **Sec. 4. The marina operator shall:**

8 (1) perform a search of watercraft titles for the name and
9 address of the owner of the watercraft and the name and
10 address of any person holding a lien or security interest on the
11 watercraft. The marina operator shall conduct the search
12 required by this subdivision in the following order:

13 (A) First, in the records of the state of registration as
14 indicated on the exterior of the watercraft.

15 (B) Second, in the United States Coast Guard registration
16 records maintained by the National Vessel Documentation
17 Center.

18 (C) Third, in the records of the bureau of motor vehicles.

19 (2) after receiving the results of the search required by
20 subdivision (1), give notice by certified mail, return receipt
21 requested, or in person, to the last known address of the
22 owner of the watercraft, to any lien holder with a perfected
23 security interest in the watercraft, and to all other persons
24 known to claim an interest in the watercraft. The notice must
25 include an itemized statement of the charges, a description of
26 the watercraft, a demand for payment within a specified time
27 not less than ten (10) days after receipt of the notice, and a
28 conspicuous statement that unless the charges are paid within
29 that time, the watercraft will be advertised for sale and sold
30 by auction at a specified time and place;

31 (3) advertise that the watercraft will be sold at public auction
32 in conformity with the provisions of IC 26-1-7-210 and
33 IC 26-1-2-328. The advertisement of sale must be published
34 once a week for two (2) consecutive weeks in a newspaper of
35 general circulation in the county where the watercraft has
36 been left without permission. The advertisement must include
37 a description of the watercraft, the name of the person on
38 whose account the watercraft is being held, and the time and
39 place of the sale. The sale must take place at least fifteen (15)
40 days after the first publication. If there is no newspaper of
41 general circulation where the sale is to be held, the
42 advertisement must be posted at least ten (10) days before the



1 sale in not less than six (6) conspicuous places in the
2 neighborhood of the proposed sale;

3 (4) conduct an auction sale, not less than thirty (30) days after
4 the return receipt is received by the marina operator, on the
5 marina property where the watercraft was left without
6 permission;

7 (5) provide a reasonable time before the sale for prospective
8 purchasers to examine the watercraft;

9 (6) sell the watercraft to the highest bidder; and

10 (7) immediately after the auction sale, execute an affidavit of
11 sale in triplicate on a form prescribed by the bureau of motor
12 vehicles stating:

13 (A) that the requirements of this section have been met;

14 (B) the length of time that the watercraft was left on the
15 marina property without permission;

16 (C) the expenses incurred by the marina operator,
17 including the expenses of the sale;

18 (D) the name and address of the purchaser of the
19 watercraft at the auction sale; and

20 (E) the amount of the winning bid.

21 Sec. 5. Upon payment of the bid price by the purchaser, the
22 marina operator shall provide the purchaser with the affidavit of
23 sale described in this chapter.

24 Sec. 6. The affidavit of sale under this chapter constitutes proof
25 of ownership and right to possession under IC 9-31-2-16.

26 Sec. 7. After the purchaser:

27 (1) presents the bureau of motor vehicles with the affidavit of
28 sale;

29 (2) completes an application for title; and

30 (3) pays any applicable fee;

31 the bureau shall issue to the purchaser a certificate of title to the
32 watercraft.

33 Sec. 8. If a boat is sold under this chapter for an amount of
34 money that is greater than the charges owed to the marina
35 operator plus all reasonable expenses of sale, the marina operator
36 shall pay the excess in the following order:

37 (1) For the satisfaction of obligations held by secured parties
38 with respect to the watercraft, in the order in which security
39 interests in the watercraft were perfected.

40 (2) To the owner of the watercraft.

41 SECTION 2. [EFFECTIVE JULY 1, 2001] This chapter applies to
42 all watercraft located on the property of a marina after January 1,



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SENATE MOTION

Mr. President: I move that Senator Landske be added as second author of Senate Bill 344.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 344, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 25, delete "." and insert "**in conformity with the provisions of IC 26-1-7-210.**".

and when so amended that said bill do pass.

(Reference is to SB 344 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Bowser be added as coauthor of Senate Bill 344.

MRVAN

SENATE MOTION

Mr. President: I move that Senate Bill 344 be amended to read as follows:

Page 2, line 6, delete "send" and insert **"give"**.

Page 2, line 7, after "requested," insert **"or in person,"**.

Page 2, line 8, after "watercraft" insert **", "**.

Page 2, line 8, delete "and".

Page 2, line 9, after "watercraft" insert **", and to all other persons known to claim an interest in the watercraft"**.

Page 2, line 9, delete "must:" and insert **"must include an itemized statement of the charges, a description of the watercraft, a demand for payment within a specified time not less than ten (10) days after receipt of the notice, and a conspicuous statement that unless the charges are paid within that time, the watercraft will be advertised for sale and sold by auction at a specified time and place;"**.

Page 2, delete lines 10 through 24.

Page 2, line 26, after "IC 26-1-7-210" insert **"and IC 26-1-2-328"**.

Page 2, line 29, delete ":".

Page 2, run in lines 29 and 30.

Page 2, line 30, delete "(A)".

Page 2, line 31, delete "permission; and " and insert **"permission. The advertisement must include a description of the watercraft, the name of the person on whose account the watercraft is being held, and the time and place of the sale. The sale must take place at least fifteen (15) days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement must be posted at least ten (10) days before the sale in not less than six (6) conspicuous places in the neighborhood of the proposed sale;"**.

Page 2, delete line 32.

Page 2, line 33, delete "forty-five (45)" and insert **"thirty (30)"**.

(Reference is to SB 344 as printed February 16, 2001.)

MRVAN

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SENATE MOTION

Mr. President: I move that Senator Kenley be added as coauthor of Senate Bill 344.

MRVAN

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred Senate Bill 344, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 14 and 15 begin a new paragraph and insert:

"Sec. 3. The minimum six (6) month period described in section 2 of this chapter begins the day written notice is sent by the marina operator to the last known address of the owner of the watercraft or personally delivered to the owner of the watercraft. If the notice is mailed, the marina operator shall send notice by certified mail, return receipt requested. Notice, by mail or personally delivered, must include a description of the watercraft and a conspicuous statement that the watercraft is at the marina without permission of the marina."

Page 1, line 15, delete "3" and insert "4".

Page 1, line 16, delete "at the bureau of" and insert **"for the name and address of the owner of the watercraft and the name and address of any person holding a lien or security interest on the watercraft. The marina operator shall conduct the search required by this subdivision in the following order:**

(A) First, in the records of the state of registration as indicated on the exterior of the watercraft.

(B) Second, in the United States Coast Guard registration records maintained by the National Vessel Documentation Center.

(C) Third, in the records of the bureau of motor vehicles."

Page 1, delete line 17.

Page 2, delete lines 1 through 4.

Page 3, line 7, delete "4" and insert "5".

Page 3, line 10, delete "5" and insert "6".

Page 3, line 12, delete "6" and insert "7".

Page 3, line 19, delete "7" and insert "8".

Page 3, line 21, delete "excess shall be" and insert **"marina operator shall pay the excess in the following order:**

(1) For the satisfaction of obligations held by secured parties with respect to the watercraft, in the order in which security interests in the watercraft were perfected.

(2) To the owner of the watercraft."



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Page 3, delete lines 22 through 23.
and when so amended that said bill do pass.

(Reference is to SB 344 as reprinted March 6, 2001.)

LYTLE, Chair

Committee Vote: yeas 11, nays 0.

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